

Message Text

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43

ACTION FBO-05

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FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 9144

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E.O. 11652: N/A

TAGS: ABLD, IN

SUBJ: GENERATOR PAYMENT

REF: (A) STATE 133419 (B) NEW DELHI 6635

1. WE UNDERSTAND, HYDE'S ARGUMENT THAT THE PAYMENT OF HIS RUPEE BILLS IN INDIA SHOULD COME FROM THE RS. 4.1 MILLION PORTION OF THE TOTAL PAYMENT AND NOT BE DEDUCTED FROM THE RS. 1.1 MILLION FOR THE AIR FREIGHT. WE SAID SO IN PARA 1 OF REF. B. AS WE ALSO SAID THERE, IT WOULD BE A LOT EASIER FOR US TO DO SOMETHING ABOUT IT IF HIS LAWYER HAD NOT AGREED WITH THE RBI TO DO IT THIS WAY. AS WE FURTHER SAID, BROMLEY SMITH'S EXPENSES ARE GOING TO BE SOMETHING ELSE. THE ARRANGEMENT BETWEEN HYDE AND SMITH HAS BEEN SO MUCH LESS THAN AN ARMS LENGTH ONE THAT IT HAS ALWAYS BEEN DIFFICULT TO SORT OUT WHAT HAS BEEN A SHYROW EXPENDITURE AND WHAT IS A PAN AVION EXPENDITURE. WE DON'T THINK WE CAN GET THE GOI OR THE RESERVE BANK OF INDIA TO LOOK AT ALL OF BROMLEY SMITH'S EXPENSES IN INDIA AS REALLY BEING SHYROW'S EXPENSES AND ENTITLED TO COME OUT OF THE RS. 4.1 MILLION. WE'LL TRY TO DO IT IF THAT IS WHAT THE DEPARTMENT REALLY WANTS, BUT WE THINK IT MIGHT WELL DO MORE HARM THAN GOOD. IN ANY EVENT SEE PARA. 4 FOR TIMING.

2. WE REPEAT THAT WHAT IS AT ISSUE HERE IS A VERY SMALL PORTION OF THE TOTAL AMOUNT (SOMETHING AROUND 4 PERCENT OF THE TOTAL AMOUNT AT MOST). IS IT REALLY WORTH USING UP THE EMBASSY'S CAPITAL WITH THE GOI (WE MUST DEAL AT THE EQUIVALENT OF THE ASSISTANT SECRETARY LEVEL) LIMITED OFFICIAL USE

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TO TRY TO CHANGE AN ARRANGEMENT ACCEPTED BY HYDE'S AND SMITH'S

LAWYER FOR SUCH A SMALL AMOUNT? IF WE DO GO IN ON THIS ONE, WE THINK OUR CHANCES OF SUCCESS WILL BE BETTER IF A REASONABLE AMOUNT OF BROMLEY SMITH'S EXPENSES IN INDIA ARE VIEWED AS A LEGITIMATE DEDUCTION FROM THE AMOUNT CONVERTED TO PAY FOR THE AIR FREIGHT BILL.

3. WE DON'T QUITE SHARE THE ARGUMENT HYDE MAKES IN PARA. 1 OF REF. A ABOUT THE GOI'S INTENTION WHEN IT ALLOWED THIS EMBASSY TO PURCHASE AND TRANSPORT GENERATORS WITH INCONVERTIBLE RUPEES. AS WE SEE IT, THE GOI KNEW BEFORE ANY CONTRACTS WERE SIGNED THAT IT HAD

WARNED US THAT THE RUPEES WOULD BE DIFFICULT TO USE AND KNEW THAT WE HAD SO INFORMED CAPCO. IT KNEW THAT HAD ADVISED US THAT THE RUPEES SHOULD BE DEPOSITED IN A NON-RESIDENT ACCOUNT. IT KNEW WE HAD PASSED THIS ON TO CAPCO (AS WE HAD). IF A FIRM WANTED RUPEES THAT IT KNEW WERE GOING TO BE DIFFICULT TO USE THAT WAS ALL RIGHT WITH IT. IF A FIRM COULD FIND A WAY OF USING THE RUPEES LEGALLY, FINE. SO FAR, THE FIRM HAS NOT FOUND A WAY OF USING THEM LEGALLY IN INDIA, NOR AS FAR AS WE CAN TELL DID IT EVER MAKE MUCH OF AN EFFORT. (THE LIST IT FURNISHED SOME TIME AGO ABOUT INTENDED USES WAS MUCH TOO BROAD TO BE ACCEPTABLE TO THE GOI). IT WILL BE RECALLED--NEW DELHI 15346 OF NOVEMBER 14, 1974--THAT AN ATTEMPT WAS MADE ALMOST AT THE OUTSET ILLEGALLY TO CONVERT MOST OF THE RUPEES INTO FOREIGN EXCHANGE. WE THINK IT WORTHWHILE POINTING OUT AGAIN THAT THE GOI HAD NO OBLIGATION TO CONVERT THE AIR FREIGHT PAYMENT INTO FOREIGN EXCHANGE. THE FACT THAT IT DID SO WE THINK SAYS SOMETHING ABOUT ITS INTENTIONS, E.E., TO WORK OUT A REASONABLE SETTLEMENT. IN VIEW OF THE DIFFICULTY IN FINDING A LEGAL WAY TO USE THE RUPEES, WE HAVE BEEN TRYING--AT THE INFORMAL SUGGESTION OF A FINANCE MINISTRY OFFICIAL--TO DEVELOP A COMPROMISE SETTLEMENT INVOLVING DIRECT CONVERSION INTO FOREIGN EXCHANGE TO BAIL OUT HYDE.

4. WE ARE HAPPY THAT SAREEN IS MEETING WITH SHYROW AND THE DEPARTMENT. WE HOPE A VIABLE COMPROMISE PROPOSAL ALONG THE LINES DESCRIBED IMMEDIATELY ABOVE WILL EMERGE. WE SHALL DEFER ANY FURTHER ACTION ON THE FOREIGN EXCHANGE VS. RUPEE DISBURSEMENT OF THE AIR FREIGHT UNTIL WE HAVE THIS PROPOSAL IN HAND. MAKING AN ISSUE NOW OUT OF THIS SMALL MATTER MIGHT QUEER THE PITCH FOR THE MUCH MORE IMPORTANT ATTEMPT TO REACH A COMPROMISE ON RELEASE OF PAYMENT FOR THE GENERATORS. LIMITED OFFICIAL USE

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